

Plaintiffs now seek default judgment against Empire, asking for an award of damages in the amount of: 1) \$1,000 in statutory damages; 2) attorneys' fees in the amount of \$5,167.50; and 3) costs in the amount of \$504.40. On a motion for default judgment, the well-pleaded facts in the Complaint are accepted as true. "A consequence of the entry of a default judgment is that the factual allegations of the complaint, except those relating to the amount of damages, will be taken as true." Comdyne I, Inc. v. Corbin, 908 F.2d 1142, 1149 (3d Cir. 1990). Damages must still be proven.

As to the request for statutory damages, the motion will be granted. Plaintiff asks for \$1,000 in statutory damages pursuant to 15 U.S.C. § 1692k(a)(2)(A), which states:

(a) Amount of damages. Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this title [15 USCS §§ 1692 et seq.] with respect to any person is liable to such person in an amount equal to the sum of--

- (1) any actual damage sustained by such person as a result of such failure;
- (2) (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$ 1,000 . . .

The Court notes that Plaintiff seeks damages under the provision which authorizes the Court to award “such additional damages as the court may allow.” This gives the Court the discretion to award damages in addition to actual damages, which must still be proven. Because the facts in the Complaint as to liability are taken as true, this Court will exercise its discretion and will grant the request for \$1,000 in additional damages.

Plaintiff has asked for awards of damages for attorney’s fees and costs, pursuant to 15 U.S.C. § 1692k(a)(3), and has submitted a sworn declaration and exhibit from her attorney, Efraim Z. Kieffer. As to the request for attorney’s fees and costs, the motion for default judgment will be granted. Plaintiff has also requested post-judgment interest, pursuant to 28 U.S.C. § 1961, to which she is entitled as of right under that statute.

Plaintiff has shown an entitlement to total damages in the amount of \$6,671.90. Pursuant to Federal Rule of Civil Procedure 55(b)(2), default judgment against Empire will be entered in that amount.

s/ Stanley R. Chesler
Stanley R. Chesler, U.S.D.J

Dated: June 4, 2014